

MEMORANDUM OF LAW

DATE: August 11, 1988

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Print Size of Charter Amendment Propositions in  
Ballot

This is in response to your memorandum of August 2, 1988 containing questions about the required size of print for Charter amendment propositions in the sample ballot. You ask, first, whether Government Code section 34456 applies to The City of San Diego, and, second, whether this section requires the City to print Charter amendment propositions in 10-point type on the sample ballot.

Government Code section 34456, as amended in 1986, reads as follows:

In any city or city and county with over 50,000 population, the governing body shall cause copies of the charter to be printed in type of not less than 10-point and shall, until the day fixed for the election upon the charter, advertise in one or more newspapers of general circulation in said city or city and county a notice that copies are available upon request at the elections official's office. The text of the proposed charter may show the difference from existing provisions of law by the use of distinguishing type styles.

The impartial analysis prepared by the city attorney's office pursuant to Section 5011 of the Elections Code shall include a statement notifying voters that they may call the elections official's office and request that a copy of the proposed or revised charter be mailed to them at no cost.

By case law, the regulation of the Charter amendment process is a matter of statewide concern governed exclusively by general laws. *District Election Committee v. O'Connor*, 78 Cal.App.3d 261 (1978). Therefore, in answer to your first question, Government Code section 34456 applies to The City of San Diego since this section treats one aspect of the Charter amendment process.

Resolution of the second question is more difficult.

Government Code section 34456 is located among the Government Code sections that deal with Charter proposals and revisions. Government Code sections 34451-34458. Different Government Code sections, starting with section 34459, deal with amendments and repeal of city charters. There is no statutory definition of the terms "revision" and "amendment." The statutory scheme, however, seems to contemplate that "revision" of a charter comprises a massive number of "amendments." Revisions are in a sense more global in nature. The statutes do not clarify the point at which there are enough proposed amendments to qualify as a "revision."

Black's Law Dictionary (Rev. 4th Ed. 1968) makes some distinction between the terms. "Revision" "implies a reexamination of the law, and may constitute a restatement of the law in a corrected or improved form, in which case the statement may be with or without material change, and is substituted for and displaces and repeals the former law as it stood relating to the subjects within its purview." (definition of term "revision of statutes," p. 1484). The definition of "amendment" also includes modification or change, usually involving some improvement. An amendment alters an existing law, "leaving some part of the original still standing." It is to be distinguished from a "substitute for a bill." (definition of term "amendment," p. 106).

In any event, the Charter amendments proposed for November 8, 1988 appear to be "amendments," not "revisions" of the Charter. They are limited in scope, affecting only a few number of existing Charter sections. They do not purport to make wholesale changes in the existing Charter. Therefore, it appears that Government Code section 34456 does not require The City of San Diego to print the proposed Charter amendments in 10-point size print in the sample ballot for the upcoming November 8, 1988 election.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

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